



DINGEMAN DANCER
& CHRISTOPHERSON, P.C.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

PHYLLIS BRIGGS and WILLIAM
BRIGGS, husband and wife,

Plaintiffs,

v.

NEW ENGLAND COMPOUNDING
PHARMACY, INC. d/b/a NEW
ENGLAND COMPOUNDING
CENTER, a Massachusetts
Corporation; GREGORY A.
CONIGLIARO, BARRY J.
CADDEN and LISA CONIGLIARO
CADDEN,

Defendants.

NOTICE OF MDL CONDITIONAL
TRANSFER ORDER

Civil Action No. 1:12-CV-1363 PLM

Mark R. Dancer (P47614)
Heidi M. Hodek (P73966)
Dingeman, Dancer & Christopherson,
P.C.
100 Park Street
Traverse City, MI 49684
Phone: (231) 929-0500
Fax: (231) 929-0504
Email: mdancer@ddc-law.com
hhodek@ddc-law.com

Daniel O. Myers (P49250)
The Law Offices of Daniel O. Myers
Dingeman, Dancer & Christopherson, P.C.
(of counsel)
100 Park Street
Traverse City, MI 49684
Phone: (231) 929-0500 ext. 122
Fax: (231) 929-0504
Email: dmyers@domlawoffice.com

100 Park Street
Traverse City, MI 49684
231 929 0500
800 626 0050
fax 231 929 0504

www.ddc-law.com

Plaintiffs, PHYLLIS BRIGGS and WILLIAM BRIGGS, by and through their attorneys, Dingeman, Dancer & Christopherson, P.C. and The Law Offices of Daniel O. Myers, LLC give notice that, by Order dated February 14, 2013, the Judicial Panel of Multidistrict Litigation has identified this case as a case to be transferred to the District of Massachusetts as part of MDL Docket 2419 IN RE: NEW ENGLAND COMPOUNDING PHARMACY INC. PRODUCTS LIABILITY LITIGATION. A copy of the Conditional Transfer Order is filed herewith as Exhibit A. A copy of the original Transfer Order dated February 12, 2013 is filed herewith as Exhibit B.

Dated: February 14, 2013

Respectfully Submitted,

/s/ Mark R. Dancer

Mark R. Dancer (P47614)

Heidi M. Hodek (P73966)

Dingeman, Dancer & Christopherson, P.C.

100 Park Street

Traverse City, Michigan 49684

Phone: (231) 929-0500

Fax: (231) 929-0504

Email: mdancer@ddc-law.com

hhodek@ddc-law.com

Daniel O. Myers (P49250)

The Law Offices of Daniel O. Myers

Dingeman, Dancer & Christopherson, P.C. (of counsel)

100 Park Street

Traverse City, MI 49684

Phone: (231) 929-0500 ext. 122

Fax: (231) 929-0504

Email: dmyers@domlawoffice.com

EXHIBIT A

**UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION**

**IN RE: NEW ENGLAND COMPOUNDING
PHARMACY, INC., PRODUCTS LIABILITY
LITIGATION**

MDL No. 2419

(SEE ATTACHED SCHEDULE)

CONDITIONAL TRANSFER ORDER (CTO -1)

On February 12, 2013, the Panel transferred 4 civil action(s) to the United States District Court for the District of Massachusetts for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. §1407. *See* __ F.Supp.2d __ (J.P.M.L. 2013). Since that time, no additional action(s) have been transferred to the District of Massachusetts. With the consent of that court, all such actions have been assigned to the Honorable F. Dennis Saylor.

It appears that the action(s) on this conditional transfer order involve questions of fact that are common to the actions previously transferred to the District of Massachusetts and assigned to Judge Saylor.

Pursuant to Rule 7.1 of the Rules of Procedure of the United States Judicial Panel on Multidistrict Litigation, the action(s) on the attached schedule are transferred under 28 U.S.C. §1407 to the District of Massachusetts for the reasons stated in the order of February 12, 2013, and, with the consent of that court, assigned to the Honorable F. Dennis Saylor.

This order does not become effective until it is filed in the Office of the Clerk of the United States District Court for the District of Massachusetts. The transmittal of this order to said Clerk shall be stayed 7 days from the entry thereof. If any party files a notice of opposition with the Clerk of the Panel within this 7-day period, the stay will be continued until further order of the Panel.

FOR THE PANEL:



Jeffery N. Lüthi
Clerk of the Panel

**IN RE: NEW ENGLAND COMPOUNDING
PHARMACY, INC., PRODUCTS LIABILITY
LITIGATION**

MDL No. 2419

SCHEDULE CTO-1 – TAG-ALONG ACTIONS

<u>DIST</u>	<u>DIV.</u>	<u>C.A.NO.</u>	<u>CASE CAPTION</u>
FLORIDA MIDDLE			
FLM	5	12-00630	York v. New England Compounding Pharmacy, Inc.
INDIANA NORTHERN			
INN	3	12-00615	Tolbert v. New England Compounding Pharmacy Inc
INN	3	12-00683	Landon et al v. New England Compounding Pharmacy Inc
INN	3	12-00712	Tacy v. New England Compounding Pharmacy Inc et al
INN	3	12-00726	Shrock et al v. New England Compounding Pharmacy Inc
INN	3	12-00736	Rethlake v. New England Compounding Pharmacy Inc
INN	3	12-00737	Schrock et al v. New England Compounding Pharmacy Inc et al
INN	3	12-00738	Copsey v. New England Compounding Pharmacy Inc et al
INN	3	12-00739	Klemm v. New England Compounding Pharmacy Inc et al
INN	3	12-00740	Wyres v. New England Compounding Pharmacy Inc et al
INN	3	12-00741	Tallman v. New England Compounding Pharmacy Inc et al
INN	3	12-00749	Rohrer et al v. New England Compounding Pharmacy Inc et al
INN	3	12-00775	Huff v. New England Compounding Pharmacy Inc
INN	3	12-00819	Pavlekovich et al v. New England Compounding Pharmacy Inc et al
INN	3	12-00820	Oblinger et al v. New England Compounding Pharmacy Inc et al
INN	3	12-00821	Lambert v. New England Compounding Pharmacy Inc et al
INN	3	12-00822	Ginther et al v. New England Compounding Pharmacy Inc et al
INN	3	12-00823	

			Geisler et al v. New England Compounding Pharmacy Inc et al
INN	3	12-00840	Keller v. New England Compounding Pharmacy Inc et al
INN	3	12-00841	Rhodes v. New England Compounding Pharmacy Inc et al
INN	3	12-00842	Maloney v. New England Compounding Pharmacy Inc et al
INN	3	12-00843	Raeder v. New England Compounding Pharmacy Inc et al
INN	3	12-00844	Legg v. New England Compounding Pharmacy Inc et al
INN	3	12-00845	Islas v. New England Compounding Pharmacy Inc et al
INN	3	13-00006	Baer et al v. New England Compounding Pharmacy Inc et al
INN	3	13-00007	Hartman et al v. New England Compounding Pharmacy Inc, etc, et al
INN	3	13-00022	Ellison v. New England Compounding Pharmacy Inc et al
INN	3	13-00023	Kniffen v. New England Compounding Pharmacy Inc et al
INN	3	13-00024	Jewel v. New England Compounding Pharmacy Inc et al
INN	3	13-00025	Raiff v. New England Compounding Pharmacy Inc et al

INDIANA SOUTHERN

INS	1	12-01638	COPASS v. NEW ENGLAND COMPOUNDING PHARMACY INC. et al
-----	---	----------	---

MARYLAND

MD	1	13-00183	Trope et al v. New England Compounding Pharmacy Inc. et al
----	---	----------	--

MICHIGAN EASTERN

MIE	2	12-14662	Doyon et al v. New England Compounding Pharmacy, Inc.
MIE	2	12-14820	Klaserner v. New England Compounding Pharmacy, Inc.
MIE	2	12-14822	Otto v. New England Compounding Pharmacy, Inc.
MIE	2	12-14824	Adkins et al v. New England Compounding Pharmacy, Inc.
MIE	2	12-14847	Rye et al v. New England Compounding Pharmacy, Inc.
MIE	2	12-14848	Alverado et al v. New England Compounding Pharmacy, Inc.
MIE	2	12-14849	Nelson et al v. New England Compounding Pharmacy, Inc.
MIE	2	12-14855	

			Drew et al v. New England Compounding Pharmacy, Inc.
MIE	2	12-14856	Raab et al v. New England Compounding Pharmacy, Inc.
MIE	2	12-14857	Clark et al v. New England Compounding Pharmacy, Inc.
MIE	2	12-15082	Shoop et al v. New England Compounding Pharmacy, Inc.
MIE	2	12-15083	Mattila et al v. New England Compounding Pharmacy, Inc.
MIE	2	12-15084	Peters et al v. New England Compounding Pharmacy, Inc.
MIE	2	12-15237	Vargo et al v. New England Compounding Pharmacy, Inc.
MIE	2	12-15238	Krueger et al v. New England Compounding Pharmacy, Inc.
MIE	2	12-15239	Huggett v. New England Compounding Pharmacy, Inc.
MIE	2	12-15240	Mazure et al v. New England Compounding Pharmacy, Inc.
MIE	2	12-15241	Carmichael et al v. New England Compounding Pharmacy, Inc.
MIE	4	12-14818	Hall et al v. New England Compounding Pharmacy, Inc.
MIE	4	12-15242	Smith et al v. New England Compounding Pharmacy, Inc.
MIE	5	12-15243	Ruttman v. New England Compounding Pharmacy, Inc.
MIE	5	13-10027	Greenlee et al v. New England Compounding Pharmacy, Inc. et al

MICHIGAN WESTERN

MIW	1	12-01363	Briggs v. New England Compounding Pharmacy, Inc. et al
MIW	1	12-01367	Smoot et al v. New England Compounding Pharmacy, Inc. et al

MINNESOTA

MN	0	12-02707	Ross v. New England Compounding Pharmacy, Inc.
MN	0	12-02841	Peterson v. New England Compounding Pharmacy, Inc.
MN	0	12-02938	Stanley v. New England Compounding Pharmacy, Inc.

NEW JERSEY

NJ	1	12-07176	MARKO et al v. NEW ENGLAND COMPOUNDING PHARMACY, INC. et al
NJ	1	12-07179	PENNINGTON v. NEW ENGLAND COMPOUNDING PHARMACY, INC. et al
NJ	1	12-07180	HANNAH v. NEW ENGLAND COMPOUNDING PHARMACY, INC. et al

NJ	1	12-07711	LEAVERTON, ET AL. v. NEW ENGLAND COMPOUNDING PHARMACY, INC. et al
NJ	1	12-07712	JONES v. NEW ENGLAND COMPOUNDING PHARMACY, INC. et al
NJ	1	12-07713	RAMOS v. NEW ENGLAND COMPOUNDING PHARMACY, INC. et al
NJ	1	12-07714	RIOS et al v. NEW ENGLAND COMPOUNDING PHARMACY, INC. et al
NJ	1	12-07715	RIVERA et al v. NEW ENGLAND COMPOUNDING PHARMACY, INC. et al
NJ	1	12-07716	TOLOTTI et al v. NEW ENGLAND COMPOUNDING PHARMACY, INC. et al
NJ	1	12-07717	TAYVINSKY et al v. NEW ENGLAND COMPOUNDING PHARMACY, INC. et al
NJ	1	12-07718	ZAVACKI v. NEW ENGLAND COMPOUNDING PHARMACY, INC. et al
NJ	1	12-07724	LETIZIA et al v. NEW ENGLAND COMPOUNDING PHARMACY, INC. et al
NJ	1	12-07725	GOULD et al v. NEW ENGLAND COMPOUNDING PHARMACY, INC. et al
NJ	1	13-00274	TISA et al v. NEW ENGLAND COMPOUNDING PHARMACY, INC. et al
NJ	1	13-00291	NORMAND et al v. NEW ENGLAND COMPOUNDING PHARMACY, INC. et al

TENNESSEE MIDDLE

TNM	1	12-00177	McElwee et al v. New England Compounding Pharmacy, Inc.
TNM	2	12-00115	Lewis et al v. New England Compounding Pharmacy, Inc. et al
TNM	2	12-00117	O'Brien et al v. New England Compounding Pharmacy, Inc. et al
TNM	3	12-01223	Higdon et al v. New England Compounding Pharmacy, Inc.
TNM	3	12-01224	Slatton et al v. New England Compounding Pharmacy, Inc.
TNM	3	12-01233	Rybinski v. New England Compounding Pharmacy, Inc.
TNM	3	12-01234	Bryant v. New England Compounding Pharmacy, Inc.
TNM	3	12-01240	Wray et al v. New England Compounding Pharmacy, Inc.
TNM	3	12-01254	Miller v. New England Compounding Pharmacy, Inc.
TNM	3	12-01255	Ragland v. New England Compounding Pharmacy, Inc.
TNM	3	12-01257	Sullivan et al v. New England Compounding Pharmacy, Inc.
TNM	3	12-01258	Chambers v. New England Compounding Pharmacy, Inc.
TNM	3	12-01259	Peay v. New England Compounding Pharmacy, Inc.
TNM	3	12-01260	Brinton v. New England Compounding Pharmacy, Inc.
TNM	3	12-01275	Russell et al v. New England Compounding Pharmacy, Inc.

TEXAS EASTERN

TXE	4	12-00687	Herson v. New England Compounding Pharmacy, Inc., et al
-----	---	----------	---

TEXAS NORTHERN

TXN	3	12-04200	Cavanaugh v. New England Compounding Pharmacy, Inc
-----	---	----------	--

VIRGINIA WESTERN

VAW	7	12-00562	Radford v. New England Compounding Pharmacy, Inc. et al
VAW	7	12-00563	Whittaker v. New England Compounding Pharmacy, Inc. et al
VAW	7	12-00564	Walker v. New England Compounding Pharmacy, Inc. et al
VAW	7	12-00565	Sherrill v. New England Compounding Pharmacy, Inc. et al
VAW	7	12-00566	Clark v. New England Compounding Pharmacy, Inc. et al
VAW	7	12-00576	Wingate v. New England Compounding Pharmacy, Inc. et al
VAW	7	12-00584	Brown v. New England Compounding Pharmacy, Inc. et al
VAW	7	12-00585	Linthicum v. New England Compounding Pharmacy, Inc. et al
VAW	7	12-00586	Taliaferro v. New England Compounding Pharmacy, Inc. et al
VAW	7	12-00598	Rhodes v. New England Compounding Pharmacy, Inc.
VAW	7	12-00604	Smith v. New England Compounding Pharmacy, Inc. et al
VAW	7	12-00605	McFarlane v. New England Compounding Pharmacy, Inc. et al
VAW	7	12-00606	Bradley v. New England Compounding Pharmacy, Inc. et al
VAW	7	12-00608	Kalinowski v. New England Compounding Pharmacy, Inc. et al
VAW	7	12-00609	Filson v. New England Compounding Pharmacy Inc. et al
VAW	7	12-00614	Powell v. New England Compounding Pharmacy, Inc. et al

EXHIBIT B

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: NEW ENGLAND COMPOUNDING PHARMACY, INC.,
PRODUCTS LIABILITY LITIGATION**

MDL No. 2419

TRANSFER ORDER

Before the Panel: Pursuant to 28 U.S.C. § 1407, plaintiffs in an Eastern District of Michigan action move for centralization of this litigation in the District of Minnesota. This litigation currently consists of four actions pending in two districts, as listed on Schedule A. Since the filing of the motion, the parties have notified the Panel of over 120 related actions pending in various federal districts.¹

All parties support centralization under Section 1407, but disagree on an appropriate choice for transferee district. Plaintiffs in the four actions on the motion and over 30 potential tag-along actions support centralization in the District of Minnesota. Defendant New England Compounding Pharmacy, the responding co-defendants in over 40 potential tag-along actions,² plaintiffs in five potential tag-along actions, and an interested party from the related bankruptcy case³ request the District of Massachusetts.⁴

On the basis of the papers filed and the hearing session held, we find that these actions involve common questions of fact, and that centralization under Section 1407 in the District of Massachusetts will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. All actions share factual questions relating to injuries arising from the alleged contamination of the injectable steroid methyl-prednisolone acetate at the New England Compounding Pharmacy facility in Framingham, Massachusetts, which allegedly resulted in a multistate outbreak of hundreds of cases of fungal meningitis and other infections. Centralization will

¹ These and any other related actions are potential tag-along actions. See Panel Rules 1.1(h), 7.1 and 7.2. Some of the parties have presented arguments concerning the potential tag-along actions in the current briefing. The parties, however, will have an opportunity to express their views on transfer of potential tag-along actions to MDL No. 2419, as provided for under Panel Rule 7.1.

² The responding co-defendants are Ameridose LLC, Medical Sales Management, Inc., Barry Cadden, Gregory Conigliaro, Lisa Conigliaro Cadden, Douglas Conigliaro, Carla Conigliaro, and Glenn Chin.

³ The interested party is the Official Committee of Unsecured Creditors.

⁴ In the alternative, defendant proposes the Eastern District of Michigan.

-2-

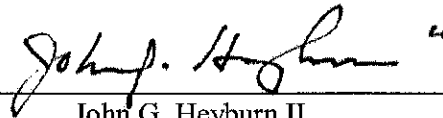
eliminate duplicative discovery; prevent inconsistent pretrial rulings, especially with respect to class certification and discovery issues; and conserve the resources of the parties, their counsel and the judiciary.

We conclude that the District of Massachusetts is an appropriate transferee district. The principal events giving rise to the alleged claims occurred in Massachusetts, the facility at which the contamination allegedly occurred is located there, and the federal and state investigations into New England Compounding Pharmacy are focused there. Thus, the primary witnesses, physical evidence, and documentary evidence likely will be located in Massachusetts. Additionally, defendant is headquartered in Massachusetts, and defendant's bankruptcy case is pending in this district. The Honorable F. Dennis Saylor IV, to whom we assign this litigation, is an experienced transferee judge who is already familiar with the contours of, and has taken preliminary steps to organize, the litigation. We are confident he will steer this litigation on a prudent course.

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, the actions listed on Schedule A and pending outside the District of Massachusetts are transferred to the District of Massachusetts and, with the consent of that court, assigned to the Honorable F. Dennis Saylor IV for coordinated or consolidated pretrial proceedings.

IT IS FURTHER ORDERED that defendant's request to modify the caption of MDL No. 2419 is denied.

PANEL ON MULTIDISTRICT LITIGATION



John G. Heyburn II
Chairman

Kathryn H. Vratil
Paul J. Barbadoro
Charles R. Breyer

W. Royal Furgeson, Jr.
Marjorie O. Rendell
Lewis A. Kaplan

**IN RE: NEW ENGLAND COMPOUNDING PHARMACY, INC.,
PRODUCTS LIABILITY LITIGATION**

MDL No. 2419

SCHEDULE A

Eastern District of Michigan

Brenda Bansale, et al. v. New England Compounding Pharmacy, Inc., C.A. No. 2:12-14559
Lyn Laperriere, et al. v. New England Compounding Pharmacy, Inc., C.A. No. 2:12-14581

District of Minnesota

Barbe Puro v. New England Compounding Pharmacy, Inc., C.A. No. 0:12-02605
Rosalinda Edwards v. New England Compounding Pharmacy, Inc., C.A. No. 0:12-02625